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BEFORE THE
ILLINOIS COMMERCE COMMISSION

Ameren Transmission Company of)
Illinois,)
)
) No. 15-0390

Petition for an Order pursuant to Section
8-509 of the Public Utilities Act authorizing use
of Eminent Domain Power.

Met, pursuant to notice, June 29, 2015, at
10:00 a.m.

BEFORE:

John D. Albers
Stephen Yoder
Administrative Law Judges

1 APPEARANCES:

2

3 Kelly Turner (by phone)
4 Office of General Counsel
5 Illinois Commerce Commission
6 160 North LaSalle Street, Suite C-800
7 Chicago, IL, 60601

8 on behalf of Staff;

9

10 Eric E. Dearmont
11 Ameren Services Company
12 PO Box 66149, MC 1310
13 1901 Chouteau Avenue
14 St. Louis, MO, 63166

15 on behalf of Ameren Illinois
16 Company d/b/a Ameren Illinois;

17

18 Joseph H. O'Brien
19 McNamara & Evans
20 PO Box 5039
21 931 South Fourth Street
22 Springfield, IL, 62705

23 on behalf of Intervenor;

24

25 Mark Pennell
26 741 Massey Lane
27 Murrayville, IL, 62668

28 pro se;

29

30

31

1 APPEARANCES:

2

3 William Gross
4 1808 West Lafayette
5 Jacksonville, IL, 62650

6
7 pro se;

8

9 Bruce Dahman
10 992 Old Route 36
11 Winchester, IL, 62694

12
13 pro se;

14

15 Mike Dahman
16 16 Reid Road
17 Winchester, IL, 62694

18
19 pro se;

20

21 Roland Gunn
22 3532 Nortonville Blacktop
23 Waverly, IL, 62692

24
25 pro se.

26

27

28

29 Court Reporter:
30 Jennifer L. Crowe, CSR
31 Illinois CSR #084-003786
32 Midwest Litigation Services
33 15 S. Old State Capitol Plaza
34 Springfield, Illinois 62701
35 217-522-2211
36 1-800-280-3376

1 PROCEEDINGS

2 JUDGE ALBERS: All right. By the authority
3 vested in me by the Illinois Commerce Commission, I
4 now call docket no. 15-0390. This docket was
5 initiated by Ameren Transmission Company of
6 Illinois and concerns a petition for an order
7 pursuant to Section 8-05, sorry, 8-509 of the
8 Public Utilities Act authorizing use of Eminent
9 Domain Power.

10 May I have the appearances for the record,
11 please?

12 MR. DEARMONT: Good morning. This is Eric
13 Dearmont on behalf of Ameren Transmission Company
14 of Illinois. My business address is 1901 Chouteau
15 Avenue, St. Louis, Missouri, 63103.

16 MR. O'BRIEN: Joseph O'Brien of McNamara &
17 Evans, 931 South Fourth Street, Springfield,
18 528-8476, appearing on behalf of Joseph and Barbara
19 Bergschneider and Paula Harms, one petition to
20 intervene that was filed on Friday I believe and a
21 second petition to intervene on behalf of Eric
22 VanGundy I believe also filed on Friday afternoon.

23 JUDGE ALBERS: All right. And staff?

24 MS. TURNER: Appearing on behalf of staff

1 witnesses of the Illinois Commerce Commission,
2 Kelly A. Turner and Marcy Sherrill,
3 S-H-E-R-R-I-L-L, 160 North LaSalle Street, Suite
4 C-800, Chicago, Illinois, 60601.

5 JUDGE ALBERS: Thank you. Does anyone else
6 wish to enter their appearance? All right.

7 MR. GROSS: Yeah, William Gross. My address
8 is 1808 West Lafayette, Jacksonville, Illinois,
9 62650, phone no. 217-883-2802. I represent Evelyn
10 Steven and Williams Gross of Gross Farms.

11 JUDGE ALBERS: Okay. As far as
12 representation, you can represent yourself but as a
13 non-attorney -- are you an attorney?

14 MR. GROSS: No.

15 JUDGE ALBERS: As a non-attorney you can't
16 represent someone else, but you are here on your
17 own behalf, that's fine.

18 Does anyone else want to enter their
19 appearance? Okay. Go ahead.

20 MR. PENNELL: Mark Pennell, 741 Massey Lane,
21 Murrayville, Illinois. Phone no. is 217-243-1455.

22 JUDGE ALBERS: Spell your last name, please.

23 MR. PENNELL: P-E-N-N-E-L-L.

24 JUDGE ALBERS: All right. Thank you. You

1 are a landowner?

2 MR. PENNELL: Yes.

3 JUDGE ALBERS: Any others?

4 MR. DAHMAN: Mike Dahman, Winchester,
5 Illinois, 1216 Reid Road, 62694.

6 JUDGE ALBERS: Spell your last name.

7 MR. DAHMAN: D-A-H-M-A-N.

8 JUDGE ALBERS: You are also a landowner?

9 MR. DAHMAN: Yes.

10 JUDGE ALBERS: All right. Thank you.

11 Anyone else?

12 MR. DAHMAN: Bruce Dahman, 992 Old Route 36,
13 Winchester.

14 JUDGE ALBERS: All right.

15 MR. DAHMAN: Landowner.

16 JUDGE ALBERS: All right. Anyone else?

17 Going once.

18 MR. GUNN: Roland Gunn, 3532 Nortonville
19 Blacktop, Waverly, 435-9552.

20 JUDGE ALBERS: Is it R-O-L-A-N-D?

21 MR. GUNN: Yes.

22 JUDGE ALBERS: And last name?

23 MR. GUNN: Gunn, G-U-N-N.

24 JUDGE ALBERS: G-U-N-N. Okay. All right.

1 MR. GUNN: Landowner.

2 JUDGE ALBERS: Thank you. Any others?

3 (No response.)

4 JUDGE ALBERS: All right. Let the record

5 show no response.

6 As far as preliminary matters this morning,

7 I have two petitions to intervene that Mr. O'Brien

8 mentioned.

9 Is there any objection to the granting of

10 those?

11 MR. DEARMONT: We have no objection.

12 JUDGE ALBERS: Those two petitions to

13 intervene are granted.

14 We also have the June 17 motion from ATXI

15 for entry of a protective order. Did anyone wish

16 to respond to that motion?

17 MR. O'BRIEN: We would like to.

18 JUDGE ALBERS: All right. Did you want to

19 do that orally, or do you want to do that in

20 writing?

21 MR. O'BRIEN: We can do it orally.

22 JUDGE ALBERS: All right.

23 MR. O'BRIEN: We just are opposing that

24 motion on the basis that we don't think that it is

1 fair to our clients that they can't discuss with
2 each other what the land agents obviously discuss
3 with each other.

4 I think it is an issue of fairness that the
5 people who are involved should be able to discuss
6 what offers have been made. Kind of smacks of
7 back-room dealing when you deal with one person and
8 they can't talk to their neighbor about what has
9 been offered to them.

10 I don't know if the same agent is involved
11 with everyone's land, but I doubt that those agents
12 fail to speak to each other, and just on that basis
13 we would oppose it.

14 JUDGE ALBERS: Okay. Ms. Turner, do you
15 have any comments?

16 MS. TURNER: Staff takes no position on that
17 issue.

18 JUDGE ALBERS: All right. Mr. Dearmont, do
19 you want to respond?

20 MR. DEARMONT: I can briefly, Judge. As you
21 know, we have discussed this in dockets previously,
22 and I understand Mr. O'Brien's concerns. I think
23 that's a pretty conservative reading of the
24 protective order, and, again, as we have discussed

1 in the past, I don't think the protective order is
2 intended to stifle communications between
3 landowners necessarily but rather is really
4 intended to protect documents obtained by virtue of
5 participation in this process, this process being
6 the case in front of the ICC here.

7 So that's our position frankly that, you
8 know, landowners should not be able to use
9 participation in this case as an avenue to obtain
10 information and documents to use in subsequent
11 negotiations. What happens outside of this docket
12 is perhaps a different story.

13 JUDGE ALBERS: All right. I think, as we
14 have discussed in the prior cases of this nature,
15 that this petition, I'm sorry, the motion for the
16 protective order is not our idea that it would be
17 policing the interaction of landowners outside of
18 this case. So we are concerned with the exchange
19 of information within this docket as it has been
20 the purview of the Commission. We would read the
21 motion more in line with the parameters Mr.
22 Dearmont identified. So we are not trying to
23 police what the landowners do.

24 MR. O'BRIEN: With that understanding we

1 have no problem.

2 JUDGE ALBERS: Okay. So I understand, with
3 that comment no objection to the motion?

4 MR. O'BRIEN: No, no longer.

5 JUDGE ALBERS: Okay. We will issue a ruling
6 on that shortly after today.

7 The only other preliminary matter I want to
8 make sure I mentioned was to ask ATXI to keep us
9 apprised and parties as well if any other easements
10 that are signed along the way with this case as
11 they occur.

12 MR. DEARMONT: Certainly.

13 JUDGE ALBERS: And then given there is some
14 landowners here who don't have any counsel present,
15 I will just go over some general ICC policies or
16 practices for this case. If any of you have any
17 questions, you are welcome to ask them.

18 Generally under the process for this kind of
19 case, the statute provides we have 45 days from the
20 day Ameren filed the petition to resolve the case,
21 and that 45th day in this instance is July 30th.
22 So we will have a very quick schedule as required
23 by state law.

24 Ameren filed their testimony with the

1 petition, and we will give staff and landowners who
2 intervene a chance to file responsive testimony.
3 Within a few days after that Ameren gets a chance
4 to file rebuttal testimony, and shortly thereafter
5 we will have an evidentiary hearing which everybody
6 gets a chance to cross-examine or ask questions of
7 anyone else who offered testimony.

8 After the evidentiary hearing we would have
9 legal briefs that are filed, and that's basically
10 where you apply facts to the legal arguments.

11 A few days later we send out a proposed
12 order which sets out our recommendation as to how
13 the case should be resolved. You would get a
14 chance to file briefs on exceptions to that which
15 basically tells -- your message to us telling us
16 what we, the judges, got wrong in the decision.
17 We will take any comments that you give us like
18 that to the five-member Commission, and they will
19 make a final decision.

20 The last scheduled Commission meeting before
21 the July 30th deadline is July 28th. So we would
22 know then whether or not the Commission intends to
23 grant Ameren's petition.

24 T he rules of practice by which we have to

1 live by in the case are set out in a 83 Illinois
2 Administrative Code 200. You can get a copy of
3 that online or just by going over here to the
4 clerk's office next door here.

5 I mentioned intervention. That's the notion
6 that when you formally intervene or become part of
7 the case even more than just listening in, you need
8 to do that pursuant to the code part 200. It sets
9 out how you do that. There are examples of
10 petitions to intervene in this case such as the
11 ones Mr. O'Brien filed for his clients.

12 Does anybody have any questions at this
13 point?

14 (No response.)

15 JUDGE ALBERS: All right. I take that as a
16 no. Ameren did give us a suggested schedule in
17 this petition.

18 Did anyone have any questions or comments
19 about that?

20 MR. O'BRIEN: We have reviewed the schedule,
21 and we don't have any problems with it.

22 JUDGE ALBERS: Okay.

23 MS. TURNER: Your Honor, this is Kelly
24 Turner for staff. We would like to request that

1 staff and intervenor direct testimony be pushed
2 back until noon on Tuesday, July 7th if there is no
3 objection from any of the parties.

4 JUDGE ALBERS: Well, before anybody responds
5 to that, Judge Yoder and I had talked about moving
6 ATXI rebuttal date to noon on July 9th just to make
7 sure we had time to look at it before the hearing
8 on Monday. So with that in mind --

9 MR. DEARMONT: Well, those two things are
10 tied together I think, so --

11 JUDGE ALBERS: They are.

12 MR. DEARMONT: -- to the extent that our
13 rebuttal does not get moved, we would not object to
14 Ms. Turner's suggestion, but to the extent that it
15 does, that would probably compact us a bit much.

16 MS. TURNER: Is someone talking in the
17 background?

18 MR. O'BRIEN: Somebody in the hallway

19 MS. TURNER: Okay. Thank you. Judge, can
20 we have a discussion off the record about the
21 schedule?

22 JUDGE ALBERS: Sure.

23 MS. TURNER: Would you like it to be on the
24 record, either one?

1 JUDGE ALBERS: Well, we can go off the
2 record. I think it's been laid out what people are
3 looking for. We will, you know, summarize whatever
4 we discuss off the record when we go back on. So
5 let's go off the record.

6 (Discussion off the record.)

7 JUDGE ALBERS: Back on the record. We have
8 tweaked the dates and times as suggested in the
9 petition. I will go ahead and read the complete
10 schedule.

11 After today we would have staff and
12 intervenor direct due at 10:00 on July the 7th
13 followed by ATXI rebuttal at 3:00 on July 9th, the
14 evidentiary hearing which starts at 9:00 on July
15 13th. We will have simultaneous briefs on July
16 15th at 9:00. We will get the proposed order out
17 on July 17th and have simultaneous briefs on
18 exceptions on July 21st, and that should get us,
19 have us in good shape for the order on the July
20 28th bench.

21 MR. O'BRIEN: The briefs would be due at
22 nine a.m. on the 15th did you say?

23 JUDGE YODER: Yes.

24 JUDGE ALBERS: I think that was --

1 MR. DEARMONT: Nine a.m. was the hearing
2 start time --

3 MR. O'BRIEN: Okay.

4 MR. DEARMONT: -- on the 13th, then I had
5 intended close of business on July 15th subject to
6 any disagreement from the judges here.

7 JUDGE ALBERS: Okay. I carried that over,
8 then.

9 Okay. We will have simultaneous briefs due
10 at 1:00 on July 15th.

11 Anything else regarding the schedule from
12 anyone?

13 (No response.)

14 JUDGE ALBERS: Okay. Just to gauge the
15 level of participation on this docket, any
16 landowners who entered appearances, do any of you
17 intend to formally intervene and participate?

18 UNIDENTIFIED: We don't know what it entails
19 or what the procedure is.

20 JUDGE ALBERS: Okay. Well, maybe we can
21 talk about some of that.

22 Does anyone want that on the record or we
23 can talk informally when the hearing is over?

24 UNIDENTIFIED: Informally.

1 JUDGE ALBERS: Informally. Okay. I'm
2 getting heads nodding yes.

3 MR. DEARMONT: We'd have no objection to
4 that.

5 JUDGE ALBERS: Okay. We will do that in the
6 room here after we are done.

7 All right. Anything else for the record
8 then today?

9 MR. ROCKROHR: Can we discuss discovery
10 turnaround?

11 JUDGE ALBERS: Well, Ms. Turner, does staff
12 have any interest in discussing discovery
13 turnaround?

14 MS. TURNER: Your Honor, we would just
15 request that if we issue discovery requests to the
16 company by tomorrow, that we can get responses by
17 close of business on Thursday with best efforts
18 from the company of course.

19 MR. DEARMONT: I think we can commit to use
20 best efforts. It is a little bit difficult for us
21 to respond not having seen discovery. I'm
22 confident if they are the standard types of
23 discovery requests that we are familiar with, then
24 we'd probably be able to get you a response by

1 close of business on Thursday.

2 Ms. Turner, in the event there is an issue,
3 I would be happy to work with you to resolve those.

4 MS. TURNER: Yes. Same here. Thank you.

5 MR. DEARMONT: You are welcome.

6 JUDGE ALBERS: Okay. Anything else for the
7 record, then, today?

8 MR. DEARMONT: Going forward, Kelly, what
9 had we traditionally done after staff and
10 intervenor direct? Did we drop to two business --

11 MS. TURNER: I believe so.

12 MR. DEARMONT: Would we propose to use that
13 again?

14 MS. TURNER: That would be fine with staff.

15 MR. O'BRIEN: We have no objection.

16 MR. DEARMONT: Thank you.

17 JUDGE ALBERS: Anything else?

18 (No response.)

19 JUDGE ALBERS: Hearing nothing, thank you
20 all, and we will continue this to nine a.m. on July
21 13th.

22 (Hearing continued to July 13, 2015, nine a.m.)

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24 CERTIFICATE OF REPORTER

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I, JENNIFER L. CROWE, a Certified Shorthand Reporter within and for the State of Illinois, do hereby certify that proceeding was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

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